

**Washington State Human Rights Commission
MEETING OF
February 25, 2005**

**Hilton Hotel
Sea Tac, WA**

MINUTES

ATTENDENCE

Commissioners: J. Reiko Callner, Commission Chair; Ellis Casson; Dallas Barnes; Ben Cabildo; and Deborah Sioux Cano-Lee. A quorum was present.

Staff: Marc Brenman, Executive Director; Tanya Calahan, Executive Assistant to the Commissioners; Regina Hook, Operations Manager; Cheryl Strobert, Program Manager; Traci Friedl, Assistant Attorney General; and Idolina Reta, Special Assistant.

Guests: Toby Olson, Executive Director, Governor's Committee on Disability Issues and Employment.

(Audio tape one – side one)

OPENING AND WELCOME

Commissioner Callner called the meeting to order at 9:10 a.m.

APPROVAL OF MINUTES

The Commissioners considered the minutes of the January 28, 2005 meeting. On page 5 "Commissioner Callner stated that she ...unbridled. The point is to be mindful of the cost. Add that.

On page 6, first carry over paragraph. Traci Friedl's comment. She meant that Commissioners shouldn't speak in a lobbying instances. The minutes.

Page nine of 12, second paragraph.

Leslie Johnson section...should be respondent's failure.

Commissioner Casson made a motion to approve the minutes with noted corrections. Commissioner Barnes seconded the motion. MOTION CARRIED.

The Commissioners next considered the minutes of the February 15, 2005 special Commission meeting. Commissioner Casson made a motion to approve the minutes. Commissioner Barnes seconded the motion. MOTION CARRIED.

Commissioner Casson made a motion to approve the minutes of the February 17, 2005 special Commission meeting. Commissioner Barnes seconded the motion. MOTION CARRIED.

GOVERNOR'S COMMITTEE ON DISABILITY ISSUES & EMPLOYMENT (GCDE)

Toby Olson spoke to the Commission about his organization and its role. The agency was created by Executive Order. Funding for it comes from interagency agreements and grants for specific projects. The core funding which allow the Committee to function comes from interagency agreements with fellow state agencies. Until recently, GCDE had an interagency agreement with the Commission for \$5000. Mr. Olson asked on behalf of the GCDE that the Commission again provide that funding this biennium.

Mr. Olson also asked that the Commission join GCDE and other disability organizations to inform Governor Gregoire that GCDE requires a more consistent source of funding to operate. Before that can be done however; GCDE must determine a rational level of funding is.

Mr. Olson answered the Commissioners questions regarding the service that agencies receive after providing GCDE funding through an interagency agreement. He shared that GCDE membership is quite large and it provides technical assistance on disability issues. They are nationally known for their expertise about disabilities.

Employment Security is the primary agency providing support to the GCDE. Agreements exist with Department of Social and Health Services, Department of Licensing, Labor & Industries, Veteran's Affairs. Department of Transportation had an agreement in the past but not currently. GCDE had agreements off and on with Department of Personnel, Community Trade & Economic Development, and Department of Corrections. The biennial budget is set at \$1.7 million. This money comes mostly from grants, which pays for work that GCDE contracts out. The grant money cannot be used to carry out the core functions of the organization so a more consistent funding source is needed.

Mr. Olson spoke about participating in the Commission's Thursday night forums that are held in conjunction with Commission meetings. He also spoke about the unpopular responses to the Americans with Disabilities Act (ADA) in the employment arena. He also mentioned the controversy surrounding recent Oscar winning movies "Million Dollar Baby" and "The Sea Inside." These movies deal with helping persons with disabilities die. He suggested a forum to speak about disability issues and disability rights. He commented that these movies are a symptom of the problem with the pervasive, widely held stereotypes and assumptions about persons with disabilities.

EXECUTIVE DIRECTOR'S REPORT

Marc Brenman highlighted his executive director's report. He spoke about grievances and complaints.

Commissioner Barnes asked about customer service issues.

(Audio tape one – side two)

RECONSIDERATIONS

Program Manager Cheryl Strobert provided a summary of the petitions for reconsiderations that will not have parties participating.

Gary Corbray v. Bay Zinc, Inc. Cheryl Strobert summarized the case. Commissioner Casson made a motion to deny the complainant's petition for reconsideration. Commissioner Cano-Lee seconded the motion. MOTION CARRIED.

Joe Scales v. Sandvik Special Metals. Cheryl Strobert summarized the case. Commissioner Cano-Lee made a motion to deny complainant's petition for reconsideration. Commissioner Casson seconded the motion. Commissioner Barnes abstained. MOTION CARRIED.

LEGISLATIVE UPDATE

Commissioner Callner commented about legislative matters that may come up in between Commission meetings. She asked the Commissioners if they would like to receive regular updates from Executive Director Marc Brenman like she does. Lawmakers don't usually consult agencies whose laws may be impacted by proposed legislation so she noted that if something urgent comes up in the Legislature; the Commissioners may need to call a special meeting to address issue.

Marc Brenman spoke about pending legislation. He touched on House Bill 1515, which is the bill that will expand the jurisdiction of the Human Rights Commission to include sexual orientation. The bill is currently in the Senate for consideration.

He next shared information about the diversity in higher education bill. Race and national origin could be used as a factor in higher education admissions under this bill. The Governor has publicly supported the bill. The bill would make Washington State's practices consistent with federal law. Mr. Brenman recommended that the Commission support the Governor and others that have spoken in support of the bill. The bill would amend the Washington State Law Against Discrimination under RCW 49.60.400.

Another bill deals with "force" in public K-12 schools. There's a history of use of excessive force on students who are being disciplined. Special Assistant Idolina Reta spoke with Office of the Superintendent of Public Instruction (OSPI) staff about the bill which contains language about a model policy and training. OSPI is the lead agency on the bill. An advisory group will be meeting monthly to address the policy and training components. Commissioner Callner is interested in attending the advisory group meetings of they're held locally.

Mr. Brenman next spoke about a bill on lawful source of income. In 1994, the Commission was approached by the Affordable Housing Advisory Board (AHAB) to provide support of a bill on source of income. At the time, the Commission was trying to become substantially equivalent to the Federal Fair Housing Law. The Commissioners declined to support the bill at that time with the option to support it in the future. Commission staff compiled a survey regarding source of income. There wasn't enough evidence to support an urgent need to include source of income as a protected class.

CASE CLOSURES

Commissioner Barnes expressed concern about aging cases. He spoke about the need to address the issue. Commissioner Cabildo went on record to say that he supports Commissioner Barnes' concern regarding aging cases.

The Commissioners next discussed several cases.

In the case of Buckmeier v. Snohomish County Prosecuting Attorney; finding of fact number five (5) is unclear as far as which individuals reviewed applications. Regina Hook will ask staff to revise that paragraph it makes better sense.

In the case of Mosley Jr. v. Inflation Systems Inc.; Commissioner Callner expressed that she had difficulty following the logic of this case. Complainant was advised by the plant nurse to walk around the plant as an accommodation. Regina Hook explained that he documented that he needed to walk around however; complainant's accommodation was for him to walk around within the confines of his work area but instead, he was walking around the entire facility and talking with other employees. This was an abuse of the approved accommodation. Commissioner Callner commented that a cold reading of the finding doesn't reflect that explanation. Staff will revise the finding so it reads clearer.

(Audio tape two – side one)

In the case of Venus v. Cambridge Court, the Commissioners noted that this appears to be the fourth case filed against this particular respondent. It could mean that there is a particular problem. Commissioner Cabildo commented that the Commissioners should be aware of patterns.

Commissioner Cano-Lee also asked about Venus v. Cambridge Court Apts. She asked if the law requires that one provide evidence of that a service animal is “trained” or “certified.” Marc Brenman explained that the service animal must provide a medically necessary service and be trained. The animal must also obey certain rules of behavior. There is a grey area when it comes to specific training.

Commissioner Lee made a motion to approve the recommended findings with the noted corrections. Commissioner Barnes seconded the motion. MOTION CARRIED.

CUSTOMER INPUT AND RESPONSE

A member of the public Cindy Ference read a statement that she prepared for the Commissioners. She spoke about the handling of her housing cases that the Commission investigated.

Commissioner Callner commented that Ms. Ference’s case is one in point of the “aging cases” issue. Commissioner Cano-Lee stated that some in the public have commented about a potential conflict of interest because the US Department of Housing and Urban Development provides funding to Commission and to the local housing authorities. Maybe the Commission should acknowledge the concern and explain why it should be alleviated. A letter or visit to the Housing Authority.

RECONSIDERATIONS CONT..

William Hunter v. SCIS Security Corporation. Cheryl Strobert provided a summary of the case. Tanya Calahan reviewed the rules of order for reconsideration proceeding. The complainant appeared in person with his witness Mr. Knupp. Jillian Barron, Attorney at Law appeared on behalf of Respondent.

Mr. Hunter spoke about the investigator on his case who he claims did not consider evidence that he had. He stated that there was no misconduct on his part.

Jillian Barron next spoke on behalf of Respondent. She shared that within a few days that complainant filed his petition for reconsideration; he filed a lawsuit in Federal Court on November 1, 2004 that covers the same issues in his complaint. If the Commission looks at information and interviews witnesses, then respondent would want to respond also.

(Audio tape two – side two)

Ms. Strobert spoke about the practice of not competing with the courts. Assistant Attorney General Traci Friedl explained the rules regarding that under WAC 162-08. Idolina also summarized the procedure of administrative reopening cases.

Commissioner Casson made a motion to grant complainant's petition for reconsideration to interview complainant's witnesses and review the training document that complainant allegedly refused to sign. Commissioner Cabildo seconded the motion. MOTION CARRIED.

The Commissioners discussed the issue of concurrent remedies: a case filed in court and the Commission at the same time. Traci Friedl will provide further advice to the Commissioners on the issue.

CO-SPONSORING EVENTS

Commissioner Callner spoke about the Commission co-sponsoring a community event in Olympia on April 16, 2005 with the Jewish Temple in Olympia at no cost to the Commission. Commissioner Callner then made a motion that the Commission support the event. Commissioner Casson seconded the motion. MOTION CARRIED

Commissioner Callner suggested that the Commissioners accept Toby Olson's request to have an event on current disability issues at the March 17, 2005 forum. Commissioner Casson made a motion to accept the request. Commissioner Cabildo seconded the motion. MOTION CARRIED.

UNFINISHED BUSINESS

Commissioner Callner spoke about the draft procedure for reviewing the complaints against the executive director and the evaluation process. She prepared the document for the Commissioners to review and comment about. The Commissioners will take action on the drafts at the March 18, 2005 Commission meeting.

(Audio tape three – side one)

ACTION ITEM REVIEW

Tanya Calahan reviewed action items from the day's meeting.

Dennis Lane from Bellingham proposed that his student roundtable discussion video on bullying might be used as a focus at a Commission forum where we would bring in

members of the community to discuss the policies which aren't being implemented all the way around. Tanya will dub the video and distribute it to the Commissioners and Marc Brenman.

Commissioner Cano-Lee was asked by her daughter's principal to attend a "REACH" conference in Seattle. She asked about limitations for Commissioners. Commissioner Cabildo spoke of the importance of not preventing Commissioners from participating in community events as "ambassadors" of the Human Rights Commission.

EXECUTIVE SESSION

At 3:35 p.m. Commissioner Callner announced that the Commissioners will enter executive session to review the performance of the public employee pursuant to RCW 42.30.110 (1) (g).

There being no further business, the meeting adjourned at 4:22 p.m.

Respectfully submitted,

Tanya Y. Calahan
Executive Assistant to the Commissioner